

MATTHEW J. CUNANAN, WSBA #42530
DC Law Group NW LLC

Hon. Ricardo S. Martinez

12055 15th Ave NE
 Seattle, WA 98125
 Office: 206.494.0400
 Fax: 855.494.0400
 matthew@dclglawyers.com

UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF WASHINGTON

HEATHER WINSLOW BARR

Petitioner/Plaintiff,

vs.

JOSEPH STANLEY PIGOTT

Respondent/Defendant.

)
) Case No. 19-cv-00682-RSM
)
) PETITIONER'S MOTION FOR ATTORNEYS
) FEES
)
)
) **NOTED FOR AUGUST 30, 2019**
)
) **Without oral argument**
)

I. RELIEF REQUESTED

Petitioner brings a Motion to recover her attorneys' fees incurred for pursuing a remand of this case back to King County Superior Court pursuant to 28 USC § 1447(c) and Hon. Judge Ricardo Martinez's Court Order dated July 23, 2019. (Dkt. #28).

II. STATEMENT OF FACTS

On May 7, 2019, Joseph Stanley Pigott filed a Notice of Removal with the U.S. District Court, Western Division on May 7, 2019. No Notice was filed with the State Court. The first notice received by the attorney for Heather Barr was on May 28, 2019, by email from Joseph Stanley Pigott.

On June 5, 2019, Petitioner filed her motion to remand this case back to State Court. (Dkt. #17). Respondent failed to file a response to Petitioner's motion. On July 23, 2019, this Court granted Petitioner's motion to remand. (Dkt. #28). On August 6, 2019, the clerk of the court transferred this file to the King County Superior Court. (Dkt. #29).

III. STATEMENT OF THE ISSUES

1. Should this Court award attorney fees to Plaintiff/Petitioner and enter a judgment against Defendant/Respondent?

IV. EVIDENCE RELIED UPON

The motion is based on: the (1) Declaration of David P. Tracy, Matthew Cunanan and Federal Court Docket and file.

V. AUTHORITIES AND ARGUMENTS

A. As the prevailing party, Petitioner is entitled to recover her fees and costs.

Petitioner prevailed on her motion to remand this case back to State Court. Respondent did not file a response to Petitioner's motion. Petitioner incurred substantial attorneys' fees and costs associated with the remand. These fees and costs includes resources to prepare her case, research case law, local rules, draft her motion to remand and additionally her motion for fees.

On July 23, 2019, Judge Martinez specifically ordered that: "...Respondent shall pay to Petitioner the costs associated with defending the action in this Court." (Page 4 at Line 3). Additionally, this Court "may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c). "Absent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal." *Martin v. Franklin Capital Corp.*, 546 U.S. 132 (2005). Here, there is no dispute Petitioner prevailed on her remand claim.

B. Mr. Cunanan's and Mr. Tracy's hourly rates are more than reasonable.

The fees charged by the Petitioners attorneys in this matter are the same as, or less than, those charged to other clients and are consistent with the rates charged by other attorneys in the area. Lead counsel, Matthew Cunanan, charges \$250 per hour for all clients. Similarly, the hourly rate of co-counsel David Tracy charges \$250 per hour, which is at or below the average rate charged by attorneys of similar skill and experience in the community.

Mr. Cunanan started his litigation career in 2008 as an intern at the local public defenders' office known as Society of Counsel Representing Accused Persons. Mr. Cunanan received his Juris Doctorate degree from the Seattle University School of Law in December 2009. He received his license to practice law from the Washington State Supreme Court in June 2010 and immediately founded DC Law Group. Mr. Cunanan is also licensed to practice in the United States Bankruptcy Court for the Western and Eastern Districts of Washington, the United States District Court for the Western and Eastern Districts of Washington as well as being admitted pro hac vice into the Los Angeles County Superior Court. Mr. Cunanan has represented numerous clients in commercial, employment, brain injury and real estate litigation matters. He has extensive experience dealing with federal and state government agencies in federal court as well as in administrative proceedings, hearings, and appeals. Mr. Cunanan has also tried numerous cases to verdict in state and federal court as well as in private arbitrations and trials.

Given Mr. Tracy's experience and skill, his hourly rate is more than reasonable. Mr. Tracy received his license to practice law from the Washington Supreme Court in 1978. He has practiced law for over 40 years.

C. Counsel's expended time is reasonable.

As an initial matter, each attorney carefully reviewed their own billing records and eliminated any work that was excessive, redundant, or otherwise unnecessary. This included removing time spent on work that was not ultimately used, inefficient time, and time spent on

related matters that ultimately did not become part of the trial. Similarly, each attorney billed only for the work they personally performed on the case; work of paralegals, legal assistants, and other staff who typically bill in the range of \$120 to \$175, was excluded. This alone represents a substantial reduction in time and fees. Mr. Cunanan spent 10.6 hours working on this case and Mr. Tracy expended 5.6 hours on the federal case, for a combined total of 16.2 hours.

VI. SUMMARY OF FEES AND COSTS

Attorney	Hours	Rate	Total
Matthew Cunanan	10.6	\$250	\$2650
David Tracy	5.6	\$250	\$1400
Total Attorneys' Fees			\$4050

VII. CONCLUSION

Petitioner respectfully requests this court to grant to her motion for attorneys' fees incurred for pursuing a remand of this case back to King County Superior Court pursuant to 28 USC § 1447(c) and Hon. Judge Ricardo Martinez's Court Order dated July 23, 2019. (Dkt. #28).

VII. PROPOSED ORDER

A Proposed Order is attached hereto as Exhibit "A"

DATED: August 6, 2019

DC Law Group NW

s/ Matthew Cunanan

Matthew Cunanan, WSBA # 42530

matthew@dclglawyers.com

Of Attorneys for Petitioner